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7590 11/15/2010 Webb Ziesenheim Logsdon Orkin & Hanson, P.C. Suite 700 436 Seventh Avenue Pittsburgh, PA 15219				
EXAMINER DENNISON, JERRY B				
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* DAVID A. FERTELL and JOSEPH I FIELD, JR.

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Appeal 2009-006840  
Application 10/055,407  
Technology Center 2400

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Before JAMES D. THOMAS, LANCE LEONARD BARRY, and  
CAROLYN D. THOMAS, *Administrative Patent Judges*.

J. THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

## STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134 (a) from the Examiner's twice rejection of claims 1 through 9, and 13 through 23. An outstanding objection to claims 10 through 12 remains and is not before us. We have jurisdiction under 35 U.S.C. § 6 (b).

We affirm.

## INVENTION AND REPRESENTATIVE CLAIM

Claim 1 itself is best representative of the disclosed and claimed invention:

1. A method for controlling computer network access, the method comprising the steps of:

(a) initiating at a client computer a first communication session at a first network address;

(b) receiving at the client computer via the first communication session a second network address;

(c) initiating at the client computer a second communication session at the second network address;

(d) receiving at the client computer via the second communication session an access configuration including a control setting for at least one communication protocol capable of being utilized during a third communication session;

(e) instantiating on the client computer a process which initiates a third communication session at a third network address; and

(f) in connection with the third communication session, controlling the conveyance of data at least one of (i) to and (ii) from the process instantiated on the client computer based on the control setting for the one communication protocol.

### PRIOR ART AND EXAMINER'S REJECTIONS

The Examiner relies on the following references as evidence of anticipation and unpatentability:

Swift	US 7,113,994 B1	Sep. 26, 2006 (filing date: Jan. 24, 2000)
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Caronni	US 2006/0077977 A1	Apr. 13, 2006 (effective filing date: Dec. 10, 1999)
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Claims 22 and 23 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Swift. This reference along with Caronni is utilized within 35 U.S.C. § 103 to reject the remaining claims on appeal, claims 1 through 9, and 13 through 21.

### ANALYSIS

For the reasons set forth by the Examiner in the Answer we affirm both the rejection under 35 U.S.C. section 102 and the separate rejection under 35 U.S.C. § 103. We agree with the Examiner's findings and correlations in the Answer including the Examiner's responsive arguments portion of the Answer directly addressing those arguments of Appellants presented in the principal Brief. Our discussion here will be limited to the following points of emphasis.

Swift's figure 1 shows a personal computer 20 in a network environment communicating with a remote computer 49. The discussion of this figure at column 4, beginning at line 25, indicates that the remote computer may be a personal computer as well as a server.

The secured network dialogs are illustrated in figure 2, the principal portion of which relied upon by the Examiner indicates that the user 70 may implement an authorized proxy client 74 with which to secure access to the target service 76. The figure 3 environment collocates the user 70 with the client 100. As relied upon by the Examiner, the teachings at column 5 with respect to figure 2 discuss the various dialogs that are pertinent to a portion of the three dialogs of independent claims 1 and 13 on appeal as well as the single dialog recited in independent claim 22. In this regard, the noted teachings at column 5 teach the manner in which a target service 76 receives its access configuration data including control setting information utilized to control the conveyance of data, in contrast to the contrary view taken with respect to independent claim 22 and page 10 of the principal Brief.

We do not agree with the additional view taken at this location of the principal Brief and the paragraph bridging pages 2 and 3 of the Reply Brief that target service 76 itself only controls its own excess. A person of ordinary skill in the art would clearly understand from Swift that there is a mutual access control between the target service 76 and the authorized proxy client 74. We do not agree with the view that merely providing data structure 90 may not comprise the feature of access control as broadly claimed.

In as much as independent claim 22 does not require a client computer, the subject matter of independent claims 1 and 13 merely requires a generic client computer. According to the Examiner's reasoning in the Answer and Swift teaches the proxy client is authorized to act for the user 70 and, as such, is a special type of client computer to the extent recited in claims 1 and 13 on appeal. Appellants' views otherwise in the principal

Brief and Reply Brief are not persuasive. From the perspective of the access server or target service 76 in figure 2 of Swift, the server "sees" authorized proxy client computer 74 as the user 70. As indicated earlier in this opinion, figure 3 of Swift also shows a user 70 associated with the client computer 100 in a collocated manner.

Page 9 of the principal Brief appears to argue that claim 13 requires separate, different servers by the recitation of a first server and a second server. The claim does not so require and, in fact, specification paragraph [0014] teaches that the "first and second server computers can be the same server computer."

We also agree with the Examiner's combinability arguments set forth at pages 18 through 20 of the Answer as to the combinability of the teachings of Swift and Caronni within 35 U.S.C. § 103, since these remarks are consistent with the permissible analyses provided by *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). This United States Supreme Court case does not require but permits a motivation analysis to satisfy the statute. The Examiner's reasoning that Swift is silent as to how a proxy client obtains the address of a trusted security server, whereas Caronni teaches this as relied upon by the Examiner, is consistent with the broader analytical frameworks permitted by *KSR*. Indeed, the Examiner even makes reference to this case in the noted portion of the Answer. We agree with the Examiner's view that independent claims 1 and 13 amount to nothing more than a predictable use of prior elements according to their established functions. It is further noted that Appellants' reasoning at page 3 of the Reply Brief is misplaced that Caronni does not "need" a first communication session etc. If any need exists, it is stated by the Examiner to be in Swift and not in Caronni.

As to the remarks at the bottom of page 3 of the Reply Brief, Appellants appear to recognize that Caronni shows in figure 11 a web client 1102 that obtains address data to a Web server 1104 from the computer system 1106. Paragraphs [0052] and [0078] of Caronni teach that the corresponding computer system 1106 is in fact a server itself. Even as argued as to independent claim 13, the reference clearly does teach separate, distinct servers for the client 1102.

Although the principal Brief does argue the patentability of dependent claim 8, the Reply Brief does not further pursue arguments as to this claim. The ability to receive another access configuration in dependent claim 8 is inclusive of the same or a different access configuration at different points in time, which is plainly within the teachings of the combined system of Swift and Caronni. Moreover, the word "another" in claim 8 does not necessarily require that another access configuration is different.

### CONCLUSION AND DECISION

Appellants have not shown that the Examiner erred in rejecting independent claim 22 on appeal under 35 U.S.C. § 102. Likewise, Appellants have also not shown that the Examiner erred in rejecting independent claims 1 and 13, as well as dependent claim 8, within 35 U.S.C. § 103. No other claim on appeal is argued in the principal Brief. Therefore, the decision of the Examiner is affirmed.

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Application 10/055,407

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v).

**AFFIRMED**

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